



AT&T

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January 24, 2018

The Honorable Jocelyn Boyd
Chief Clerk of the Commission
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29211

Re: The Impact of the Tax Cuts and Jobs Act on South Carolina Utilities
Docket No. 2017-381-A

Dear Ms. Boyd:

Enclosed for filing in the above-captioned matter is AT&T South Carolina's Notice of Non-Participation.

By copy of this letter, I am serving a copy of this document on all parties of record as indicated on the attached Certificate of Service.

Thank you for your assistance.

Sincerely,

Patrick W. Turner

PWT/sh
Enclosure

**BEFORE THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2017-381-A**

IN RE:

THE IMPACT OF THE TAX CUTS)
AND JOBS ACT ON)
SOUTH CAROLINA UTILITIES)

NOTICE OF NON-PARTICIPATION OF AT&T SOUTH CAROLINA

The ORS's Petition and the Commission's Directive in this Docket address what impact, if any, the federal Tax Cuts and Jobs Act should have on the rates customers pay for certain utility services. As explained below, neither the rates nor any other aspect of broadband or any other retail service offered by AT&T South Carolina¹ are within the jurisdiction of the Commission. Accordingly, AT&T South Carolina respectfully informs the Commission that it does not anticipate filing a report on the impact of the federal Tax Cuts and Jobs Act or otherwise participating in these proceedings. Further, and only to the extent the Commission deems it necessary or appropriate to do so, AT&T South Carolina respectfully requests that the Commission enter an Order clarifying that it is not required to file such a report or otherwise participate in these proceedings.

I. The Commission May Require Reports and Initiate Inspections Regarding Only Matters That Are Within the Jurisdiction of the Commission.

As an agency created by the General Assembly, the Commission "possesses only the authority given it by the legislature."² While state statutes give the Commission authority to

¹ BellSouth Telecommunications, LLC d/b/a AT&T South Carolina.

² *South Carolina Cable Television Assoc. v. South Carolina Public Service Commission*, 313 S.C. 48, 437 S.E. 2d 38, 38 (1993); *See also, City of Camden v. Public Service Commission of South Carolina*, 283 S.C. 380, 323 S.E. 2d 519, 521 (1984) ("[t]he Public Service Commission is a governmental body of limited power and jurisdiction, and has only such powers as are conferred upon it either expressly or by reasonably necessary implication by the General Assembly.").

require utilities to submit written reports, those same statutes provide that “[s]uch reports must relate to matters within the jurisdiction of the commission”³ Similarly, while state statutes give the Commission authority to initiate inspections, audits, and examinations of public utilities, those same statutes provide that “[s]uch inspections, audits, and examinations must relate to matters within the commission’s jurisdiction.”⁴ The ORS’s Petition consistently acknowledges these statutory restrictions on the scope of the reports it seeks.⁵

II. The Retail Services and Rates Offered by AT&T South Carolina Are Not Within the Jurisdiction of the Commission

The Commission “is vested with power and jurisdiction” over the rates and services of public utilities in South Carolina, “[e]xcept as otherwise provided in Chapter 9 [of Title 58 of the South Carolina Code of Laws].”⁶ Chapter 9 of Title 58 provides that the Commission “must not impose any requirements related to the terms, conditions, rates or availability of broadband service or otherwise regulate broadband service”⁷ And with regard to all other retail services offered by AT&T South Carolina (and by any other company that elected to operate under section 58-9-576(C) prior to 2016), Chapter 9 of Title 58 provides that the Commission must not impose any

³ S.C. Code Ann. §58-3-190(A).

⁴ *Id.*, §58-3-200. The ORS’s authority to make inspections, audits, and examinations is similarly restricted to “matters within the jurisdiction of the commission.” *Id.*, §58-4-50(A)(2).

⁵ *See, e.g.*, Petition at 1 (noting that “[m]any South Carolina utilities, *under the jurisdiction of this Commission*, recover federal corporate income tax expenses . . . through *tariffed rates charged to the utility customers*” and stating that the Commission may have approved such tariffed rates in the following types of proceedings: “general rate, rate stabilization, purchased gas adjustment, fuel adjustment, and demand-side and energy efficiency.”)(emphasis added); *Id.* at 2 (noting the Commission’s statutory authority to require “*entities subject to its jurisdiction*” to file written reports “*concerning matters that fall within the Commission’s jurisdiction*” and asking the Commission to require “all South Carolina *jurisdictional utilities over which the Commission has ratemaking authority* to report the impact of the Act on the company’s operations.”)(emphasis added).

⁶ S.C. Code Ann. §58-3-140(A).

⁷ *Id.*, §58-9-280(G)(1).

requirements related to the terms, conditions, rates or availability of, or otherwise regulate, any of those retail services.⁸ Because AT&T South Carolina's retail services and their rates are not within the jurisdiction of the Commission, the Commission is not authorized to require AT&T South Carolina to submit reports regarding them.

CONCLUSION

It is clear, and appropriate, that the ORS's Petition is limited to rates and services that are within the jurisdiction of the Commission. Because the rates and retail services it offers are not within the jurisdiction of the Commission, AT&T South Carolina does not anticipate filing reports on the impact of the federal Tax Cuts and Jobs Act or otherwise participating in these proceedings.

Respectfully submitted this 24th day of January, 2018.

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⁸ Id., §§58-9-576(C)(2)(b), (3). AT&T South Carolina elected to operate under Section 58-9-576(C) in 2009. See Notice of Election filed in ND-2009-8-C.

STATE OF SOUTH CAROLINA)
) CERTIFICATE OF SERVICE
COUNTY OF RICHLAND)

The undersigned, Susan Hodge, hereby certifies that she is employed by the AT&T Legal Department and that she has caused AT&T South Carolina's Notice of Non-Participation of AT&T South Carolina to be served by the method indicated below upon the following this **24th** day of **January, 2018**:

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